



# राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बुधवार, 21 अक्टूबर, 1992/29 आश्विन, 1914

हिमाचल प्रदेश सरकार

आबकारी एवं कराधान विभाग

अधिसूचना

शिमला-2, 16 अक्टूबर, 1992

संख्या ई०एक्स०एन०-एफ (15) 1/92.—हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश मनोरंजन शुल्क अधिनियम, 1968 (1968 का 12) की धारा (2) के साथ पठित धारा 23 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, सरकार की अधिसूचना संख्या 14-46/68 आ० एवं करा०, तारीख 25-3-1969 द्वारा अधिसूचित और तारीख 9-12-1969 के राजपत्र, हिमाचल प्रदेश में प्रकाशित हिमाचल प्रदेश मनोरंजन शुल्क नियम, 1969 का और संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात्:—

1. संक्षिप्त नाम.—(1) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश मनोरंजन शुल्क (संशोधन) नियम, 1992 है।

(2) ये नवम्बर, 1992 के प्रथम दिन से प्रवृत्त होंगे।

2. नियम 16-ए का अन्तः स्थापन.—The existing rule 16-A of the Himachal Pradesh Entertainments Duty Rules, 1969 (hereinafter called the "said rules") shall be renumbered as rule

16-B and before rule 16-B so renumbered, the following rule shall be inserted, namely:—

**16-A. Mode of determination of lump-sum entertainment duty.**—(1) The lump-sum entertainment duty under sub-section (2) of section 3 of the Act shall be determined in the following manner:—

The proprietor of an entertainment, other than the proprietor of a video exhibition having seating capacity upto sixty persons, shall pay to the State Government entertainment duty in lump-sum to be determined by the Entertainment Tax Officer on the basis of formula and in the manner hereinafter provided and after following the procedure specified in sub-rule (2) namely:—

Number of seats in each class of admission  $\times$  number of shows specified to be exhibited per day  $\times$  1/4  $\times$  rate of payment for admission  $\times$  rate of entertainment duty.

**Explanation-I.**—In this formula 1/4 represents average occupancy taken at 25% of number of seats for which admission to an entertainment is made:

Provided that where the lump-sum entertainment duty so determined is less than the average amount of entertainment duty paid or payable during the last three years or the actual of the previous year immediately preceding the year for which lump-sum entertainment duty is being determined, the entertainment duty payable shall be the said average amount of entertainment duty or the said actual, whichever is higher but in any case it shall not be less than Rs. 1900/- per month:

Provided further that where the rate of entertainment duty is increased at any time during the year for which the lump-sum entertainment duty is determined for the purpose of the first proviso, the average amount of entertainment duty paid or payable during the last three years or actuals of the previous year immediately preceding the year for which entertainment duty is being determined shall be deemed to be the amount which would have been had the increase in the rate of entertainment duty would have been taken into account while calculating the said average amount or actual of entertainment duty:

Provided further that where the proprietor of an entertainment has not exhibited any entertainment for a complete month and produces a certificate from the licensing authority under the provisions of the Himachal Pradesh Cinemas (Regulations) Act, 1979 (4 of 1979) that his entertainment house remained closed completely for the said month, no entertainment duty can be leviable for that month:

Provided further that where a proprietor of a entertainment has not been able to exhibit the entertainment, owing to imposition of prohibitory order under section 144 of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) restricting the movement of persons or owing to natural calamities resulting in damage to the entertainment house or owing to certain mechanical defects in the cinematographic apparatus, he shall send a notice on the same day to the Entertainment Tax Officer, who, after satisfying himself regarding the genuineness of such notice or intimation, may recommend the exemption of entertainment duty for such number of days on which the proprietor has not been able to give cinematograph exhibition and the Commissioner on his recommendation may exempt the proprietor from the payment of lump-sum entertainment duty for the number of days for which the entertainment could not be exhibited:

Provided further that the deductions admissible under the third, fourth and fifth provisos to this sub-rule shall be deducted from the aggregate liability of the proprietor after the close of the financial year.

*Explanation-II.*—In this sub-rule, the term “entertainment” means an entertainment in a cinema hall or a video hall having seating capacity above sixty persons.

(2) The Entertainment Tax Officer shall follow the following procedure for determining lump-sum entertainment duty under sub-rule (1), mainly :—

(a) if the proprietor exhibiting the entertainment for a period of more than a month of the subsequent financial year he shall make an application to the Entertainment Tax Officer of the district concerned each year by 31st December intimating his intention to pay lump-sum entertainment duty;

Provided that the proprietor, exhibiting the entertainment for the period from 1-11-1992 to 31-3-1993, shall make an application to the Entertainment Tax Officer of the district concerned by 25th November, 1992, intimating his intention to pay the lump-sum entertainment duty;

(b) the amount of deductions to be allowed in pursuance of the provisions contained in the third, fourth and fifth provisos to sub-rule (1) shall be determined by the Entertainment Tax Officer after the close of the financial year and thereafter the amount so determined will be deducted from the aggregate liability of the proprietor for that financial year and in case the proprietor so chooses, the payment found by the Entertainment Tax Officer to have been made in excess may be adjusted against the liability for the subsequent period of a financial year or in case there is no liability, the amount may be refunded to the proprietor;

(c) before determining the amount of entertainment duty in lump-sum under sub-rule (1), the Entertainment Tax Officer shall afford an opportunity of being heard to the proprietor by serving him with a notice in Form H. E. D. 6-A, ordinarily in the first fortnight of January in each financial year, requiring him on a date and a place to be indicated therein either to attend in person or to produce or caused to be produced any evidence, which such proprietor may wish to produce;

(d) on the day specified in the notice or as soon as afterward the Entertainment Tax Officer shall, after considering such other evidence as it may require on specific points, ordinarily determine the lump-sum tax :—

(i) for the period from 1-11-1992 to 31-3-1993 before 25 November, 1992 and shall issue a demand notice in Form H. E. D. 6-B, and

(ii) for the financial year 1993-94 onwards, before the close of February each year and the Entertainment Tax Officer shall issue a notice of demand in Form H.E.D. 6-B; and

(e) notwithstanding anything contained hereinbefore where the rate of entertainment duty or the number of shown or the capacity of the entertainment house is changed under the directions of the Government or with the approval of the licensing authority under the Himachal Pradesh Cinemas (Regulation) Act, 1979 (4 of 1979) the amount of lump-sum entertainment duty shall be re-determined in accordance with the provisions of sub-rule (1) and notice of demand in Form H. E. D. 6-B shall be re-issued accordingly.

3. Notwithstanding anything contained hereinbefore the entertainment duty payable under the Act by the proprietor of a touring or temporary entertainment exhibiting shows for a period of less than one month shall be paid by the proprietor to the Government according to the manner prescribed under sub-section (1) of section 3 of the Act and the provisions relating to lump-sum entertainment duty shall not apply in their cases.

4. *Insertion of Form H. E. D. 6-A and Form H. E. D. 6-B.*—After Form H. E. D. 6 of the said rules the following forms shall be inserted, namely:—

“FORM H. E. D. 6-A

NOTICE

[See rule 16-A (2) (c) of the Himachal Pradesh Entertainment Duty Rules, 1969]

Office of the Entertainment Tax  
Officer .....

..... District

No..... Dated.....

To

.....  
.....  
.....

Whereas—

You, a proprietor of entertainment house known as.....in district.....are liable to pay entertainment duty under section 3 of the Himachal Pradesh Entertainment Act, 1968 and that you have intimated your intention to pay lump-sum entertainment duty under sub-section (2) of section (3) of the Act and it appears to be necessary to determine the entertainment duty under rule 16-A.

You are hereby directed to attend in person or by an agent at (place).....on (date).....at (time).....and there to produce or cause to be produced at the said time and place the document specified below or any evidence you may wish to produce for the purpose of such determination.

2. In the event of your failure to comply with this notice, I shall proceed to determine the amount of entertainment duty due without any further reference to you.

Seal,

Dated.....

Signature of the Entertainment  
Tax Officer.....

..... District.

List of documents :

.....  
....., and

FORM H. E. D. 6-B

NOTICE OF DEMAND

[See rule 16-A (2) (d) of the Himachal Pradesh Entertainment Duty Rules, 1969]

Office of the Entertainment Tax  
Officer.....  
.....District.  
No.....Dated.....

To,

.....  
.....  
.....

You are hereby informed that the amount of entertainment duty or/and penalty payable by you has been determined as under :—

A. Entertainment duty determined	Rs.....
B. Penalty imposed	Rs.....
Total A and B	Rs.....
Net amount due	Rs.....

You are hereby directed to pay the sum of Rs.....(in figures)  
rupees.....(in words) into

Treasury  
Sub-Treasury  
State Bank of India

at place.....on or before (date).....and  
furnish the receipt in proof of payment to this office on or before (date).....  
failing which the said sum will be recoverable from you as arrears of land revenue.

2. You are hereby directed to pay in the aforesaid manner the amount determined under rule 16-A in.....equal instalments and each instalment is to be paid on or before the 7th day of the month following the month to which the payment relates.

3. A challan in Form H. E. D. 6 is enclosed for the purpose.

Seal.

Signature.....  
Entertainment Tax Officer,  
District.....

Dated, .....

Note.— Words which are in-applicable be struck off.”.

आदेश द्वारा,  
ए० एन० विद्यार्थी,  
वित्तियुक्त एवं सचिव ।

[Authoritative English text of Government Notification No. EXN-F (15)1/92, dated 16-10-92, as required under clause (3) of Article 348 of the Constitution of India.]

## EXCISE AND TAXATION DEPARTMENT

### NOTIFICATION

*Shimla-2, the 16th October, 1992*

**No. EXN-F(15)' 92.**—In exercise of the powers conferred by section 23 read with sub-section (2) of section 3 of the Himachal Pradesh Entertainments Duty Act, 1968 (Act No. 12 of 1968), the Governor of Himachal Pradesh is pleased to make the following rules, further to amend the Himachal Pradesh Entertainments Duty Rules, 1969 notified *vide* Government Notification No. 14-46/68 E&T, dated 25-3-1969 published in the Rajpatra, Himachal Pradesh, dated 9-12-1969, namely :—

1. *Short title.*—(1) These rules may be called Himachal Pradesh Entertainment Duty (Amendment) Rules, 1992.

(2) They shall come into force with effect from 1st, November, 1992.

2. *Insertion of rule 16-A.*—The existing rule 16-A of the Himachal Pradesh Entertainment Duty Rules, 1969 (hereinafter called the “said rules”) shall be renumbered as rule 16-B and before rule 16-B so renumbered, the following rule shall be inserted, namely :—

“16-A. *Mode of determination of lump-sum entertainment duty.*—(1) The lump-sum entertainment duty under sub-section (2) of section 3 of the Act shall be determined in the following manner :—

The proprietor of an entertainment, other than the proprietor of a video exhibition having seating capacity upto sixty persons, shall pay to the State Government entertainment duty in lump-sum to be determined by the Entertainment Tax Officer on the basis of formula and in the manner hereinafter provided and after following the procedure specified in sub-rule (2), namely :—

Number of seats in each class of admission X number of shows specified to be exhibited per day X  $1/4^*$  X rate of payment for admission X rate of entertainment duty.

*Explanation-I.*—In this formula  $1/4$  represents average occupancy taken at 25% of number of seats for which admission to an entertainment is made:

Provided that where the lump-sum entertainment duty so determined is less than the average amount of entertainment duty paid or payable during the last three years or the actual of the previous year immediately preceding the year for which lump-sum entertainment duty is being determined, the entertainment duty payable shall be the said average amount of entertainment duty or the said actual, whichever is higher but in any case it shall not be less than Rs. 1900/- per month:

Provided further that where the rate of entertainment duty is increased at any time during the year for which the lump-sum entertainment duty is determined for the purpose of the first proviso, the average amount of entertainment duty paid or payable during the last three years or actuals of the previous year immediately preceding the year for which entertainment duty is being determined

shall be deemed to be the amount which would have been had the increase in the rate of entertainment duty would have been taken into account while calculating the said average amount or actual of entertainment duty:

Provided further that where the proprietor of an entertainment has not exhibited any entertainment for a complete month and produces a certificate from the licensing authority under the provisions of the Himachal Pradesh Cinemas (Regulations) Act, 1979 (4 of 1979) that his entertainment house remained closed completely for the said month, no entertainment duty can be leviable for that month:

Provided further that where a proprietor of a entertainment has not been able to exhibit the entertainment, owing to imposition of prohibitory order under section 144 of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) restricting the movement of persons or owing to natural calamities resulting in damage to the entertainment house or owing to certain mechanical defects in the cinematographic apparatus, he shall send a notice on the same day to the Entertainment Tax Officer, who, after satisfying himself regarding the genuineness of such notice or intimation, may recommend the exemption of entertainment duty for such number of days on which the proprietor has not been able to give cinematograph exhibition and the Commissioner on his recommendation may exempt the proprietor from the payment of lump-sum entertainment duty for the number of days for which the entertainment could not be exhibited:

Provided further that the deductions admissible under the third, fourth and fifth provisos to this sub-rule shall be deducted from the aggregate liability of the proprietor after the close of the financial year.

*Explanation-II.*—In this sub-rule, the term “entertainment” means an entertainment in a cinema hall or a video hall having seating capacity above sixty persons.

- (2) The Entertainment Tax Officer shall follow the following procedure for determining lump-sum entertainment duty under sub-rule (1), mainly :—
  - (a) if the proprietor exhibiting the entertainment for a period of more than a month of the subsequent financial year he shall make an application to the Entertainment Tax Officer of the district concerned each year by 31st December intimating his intention to pay lump-sum entertainment duty:

Provided that the proprietor, exhibiting the entertainment for the period from 1-11-1992 to 31-3-1993, shall make an application to the Entertainment Tax Officer of the district concerned by 25th November, 1992, intimating his intention to pay the lump-sum entertainment duty;

- (b) the amount of deductions to be allowed in pursuance of the provisions contained in the third, fourth and fifth provisos to sub-rule (1) shall be determined by the Entertainment Tax Officer after the close of the financial year and thereafter the amount so determined will be deducted from the aggregate liability of the proprietor for that financial year and in case the proprietor so chooses, the payment found by the Entertainment Tax Officer to have been made in excess may be adjusted against the liability for the subsequent period of a financial year or in case there is no liability, the amount may be refunded to the proprietor;

- (c) before determining the amount of entertainment duty in lump-sum under sub-rule (1), the Entertainment Tax Officer shall afford an opportunity of being heard to the proprietor by serving him with a notice in Form H. E. D. 6-A, ordinarily in the first fortnight of January in each financial year, requiring him on a date and a place to be indicated therein either to attend in person or to produce or caused to be produced any evidence, which such proprietor may wish to produce;
- (d) on the day specified in the notice or as soon as afterward the Entertainment Tax Officer shall, after considering such other evidence as it may require on specific points, ordinarily determine the lump-sum tax:—
- (i) for the period from 1-11-1992 to 31-3-1993 before 25 November, 1992 and shall issue a demand notice in Form H. E. D. 6-B; and
- (ii) for the financial year 1993-94 onwards, before the close of February each year and the Entertainment Tax Officer shall issue a notice of demand in Form H. E. D. 6-B; and
- (e) notwithstanding anything contained hereinbefore where the rate of entertainment duty or the number of shows or the capacity of the entertainment house is changed under the directions of the Government or with the approval of the licensing authority under the Himachal Pradesh Cinemas (Regulation) Act, 1979 (4 of 1979) the amount of lump-sum entertainment duty shall be re-determined in accordance with the provisions of sub-rule (1) and notice of demand in Form H. E. D. 6-B shall be re-issued accordingly.
3. Notwithstanding anything contained hereinbefore the entertainment duty payable under the Act by the proprietor of a touring or temporary entertainment exhibiting shows for a period of less than one month shall be paid by the proprietor to the Government according to the manner prescribed under sub-section (1) of section 3 of the Act and the provisions relating to lump-sum entertainment duty shall not apply in their cases.
4. *Insertion of Form H. E. D. 6-A and Form H. E. D. 6-B.*—After Form H. E. D. 6 of the said rules the following forms shall be inserted, namely:—

“FORM H. E. D. 6-A

NOTICE

[See rule 16-A (2) (e) of the Himachal Pradesh Entertainment Duty Rules, 1969]

Office of the Entertainment Tax  
Officer .....

..... District

No..... Dated.....

To

.....  
.....  
.....



Whereas—

You, a proprietor of entertainment house known as.....in district.....are liable to pay entertainment duty under section 3 of the Himachal Pradesh Entertainment Act, 1968 and that you have intimated your intention to pay lump-sum entertainment duty under sub-section (2) of section (3) of the Act and it appears to be necessary to determine the entertainment duty under rule 16-A.

You are hereby directed to attend in person or by an agent at (place).....on (date).....at (time).....and there to produce or cause to be produced at the said time and place the document specified below or any evidence you may wish to produce for the purpose of such determination.

2. In the event of your failure to comply with this notice, I shall proceed to determine the amount of entertainment duty due without any further reference to you.

Seal.

Dated.....

Signature of the Entertainment  
Tax Officer.....

..... District.

List of documents:

.....

....., and

FORM H. E. D. 6-B

### NOTICE OF DEMAND

[See rule 16-A (2) (d) of the Himachal Pradesh Entertainments Duty Rules, 1969]

Office of the Entertainment Tax  
Officer.....  
..... District  
No.....dated.....

To

.....  
.....  
.....

You are hereby informed that the amount of entertainment duty or/and penalty payable by you has been determined as under:—

A. Entertainment duty determined .. Rs.....

B. Penalty imposed .. Rs.....

Total A and B .. Rs.....

Net amount due .. Rs.....

You are hereby directed to pay the sum of Rs.....(in figures)  
rupees.....(in words) into

Treasury  
Sub-Treasury  
State Bank of India

at (place).....on or before (date).....and  
furnish the receipt in proof of payment to this office on or before (date).....  
failing which the said sum will be recoverable from you as arrears of land revenue.

2. You are hereby directed to pay in the aforesaid manner the amount determined under rule-16-A in.....equal instalments and each instalment is to be paid on or before the 7th day of the month following the month to which the payment relates.

3. A challan in Form H. E. D. 6 is enclosed for the purpose.

Seal. Signature.....  
Dated.....Entertainment Tax Officer,  
District.....

Note.—words which are in applicable be struck “off.”

By order,

A. N. VIDYARTHI,  
Financial Commissioner-cum-Secretary,